

Maine Revised Statutes
Title 38: WATERS AND NAVIGATION
Chapter 17: MAINE REFUSE DISPOSAL DISTRICT ENABLING ACT

§1721. FORMATION

The formation of a disposal district is accomplished as follows. [1995, c. 656, Pt. A, §29 (AMD) .]

1. Application by municipal officers. The municipal officers of the municipality or municipalities that desire to form a disposal district shall file an application with the department, after notice and hearing in each municipality, on a form or forms prepared by the department, setting forth the name or names of the municipality or municipalities and furnishing such other data as the department determines necessary and proper. The application must contain, but is not limited to, a description of the territory of the proposed district, the name proposed for the district that includes the words "disposal district," a statement showing the existence in that territory of the conditions requisite for the creation of a disposal district as prescribed in section 1702 and other documents and materials required by the department. The department may adopt rules under this chapter.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

2. Public hearing. Upon receipt of the application, the department shall hold a public hearing on the application within 60 days of the date of receipt of the application, at some convenient place within the boundaries of the proposed district. At least 14 days prior to the date of the hearing, the department shall publish notice of the hearing at least once in a newspaper of general circulation in the area encompassed by the proposed district.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

3. Approval of application. After the public hearing, on consideration of the evidence received, the department shall, in accordance with section 1702 and rules adopted by the department, make findings of fact and a determination of record whether or not the conditions requisite for the creation of a disposal district exist in the territory described in the application. If the department finds that the conditions do exist, it shall issue an order approving the proposed district as conforming to the requirements of this chapter and designating the name of the proposed district. The department shall give notice to the municipal officers within the municipality or municipalities involved of a date, time and place of a meeting of the representative of the municipality or municipalities involved. The municipal officers shall elect a representative to attend the meeting who may represent the municipality in all matters relating to the formation of the district. A return receipt properly endorsed is evidence of the receipt of notice. The notice must be mailed at least 10 days prior to the date set for the meeting.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

4. Denial of application. If the department determines that the creation of a disposal district in the territory described in the application is not warranted for any reason, it shall make findings of fact and enter an order denying its approval. The department shall give notice of the denial by mailing certified copies of the decision and order to the municipal officers of the municipality or municipalities involved. An application for the creation of a disposal district, consisting of exactly the same territory, may not be entertained within one year after the date of the issuance of an order denying approval of the formation of that disposal district,

but this provision does not preclude action on an application for the creation of a disposal district embracing all or part of the territory described in the original application, as long as another municipality or fewer municipalities are involved.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

5. Joint meeting. The persons selected by the municipal officers, to whom the notice described in subsection 3 is directed, shall meet at the time and place appointed. When more than one municipality is involved, they shall organize by electing a chair and a secretary. An action may not be taken at any such meeting unless, at the time of convening, there are present at least a majority of the total number of municipal representatives eligible to attend and participate at the meeting, other than to report to the department that a quorum was not present and to request the department to issue a new notice for another meeting. A quorum is a simple majority of representatives eligible to attend the meeting. The purpose of the meeting is to determine the number of directors, subject to section 1724, to be appointed by and to represent each participating municipality and to determine the duration of terms to be served by the initial directors so that, in ensuing years, 1/3 of the directors and their alternates are appointed or reappointed each year, to serve until their respective successors are duly appointed and qualified. Subject to section 1724, the number of directors to represent each municipality is subject for negotiation among the municipal representatives. When a decision has been reached on the number of directors and the number to represent each municipality and the initial terms of the directors, subject to the limitations provided, this decision must be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. The vote so reduced to writing and the record of the meeting must be signed by the chair, attested by the secretary and filed with the department. Any agreements among the municipal representatives that are considered essential prerequisites to the formation of the district, whether concerning payments in lieu of taxes to a municipality in which a waste facility is to be located, or any other matter, must be in writing and included in the record filed with the department. Subsequent to district formation, the board of directors of the district shall execute all documents necessary to give full effect to the agreements reached by the municipal representatives and filed with the department. When a single municipality is involved, a copy of the vote of the municipal officers, duly attested by the clerk of the municipality, must be filed with the department.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

6. Submission. When the record of the municipality, or the record of the joint meeting, when municipalities are involved, is received by the department and found to be in order, the department shall order the question of the formation of the proposed disposal district and other questions relating to the formation to be submitted to the legal voters residing within the municipalities, except as provided in subsection 7, in which case the municipal officers may determine the questions. The order must be directed to the municipal officers of the municipality or municipalities that propose to form the disposal district, directing them to call, within 60 days of the date of the order, town meetings or city elections for the purpose of voting in favor of or in opposition to each of the following articles or questions, as applicable, in substantially the following form:

A. Whether the town (or city) of (name of town or city) will vote to incorporate as a disposal district to be called (name) Disposal District; [1991, c. 66, Pt. B, §8 (RPR) .]

B. Whether the residents of (name of town or city) will vote to join with the residents of the (name of town or city) to incorporate as a disposal district to be called (name) Disposal District: (legal description of the bounds of the proposed disposal district). At a minimum, the district must consist of (names of essential municipalities); and [1991, c. 66, Pt. B, §8 (RPR) .]

C. Whether the residents of (name of town or city) will vote to approve the total number of directors and the allocation of representation among the municipalities on the board of directors, as determined by the municipal officers and listed as follows: Total number of directors is (number of directors) and the residents of (town or city) are entitled to () directors. (The number of directors to which each municipality is entitled must be listed.) [1991, c. 66, Pt. B, §8 (RPR) .]

Directors must be chosen to represent municipalities in the manner provided in section 1725.

[2011, c. 655, Pt. GG, §22 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

7. Determination by municipal officers. In the event that the charters of the respective municipalities, or any one of them, consistent with such state laws as may otherwise be applicable, permit the municipal officers of the municipality or municipalities that propose to form the disposal district to vote to join such a district, the municipal officers may determine the question of the formation of the proposed disposal district and other questions relating to the formation without submission to the legal voters residing within the municipality.

[1995, c. 656, Pt. A, §29 (AMD) .]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1989, c. 869, §B2 (AMD). 1989, c. 890, §§A40,B276 (AMD). 1991, c. 66, §B8 (AMD). 1995, c. 656, §A29 (AMD). 2011, c. 655, Pt. GG, §22 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

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